

REMARKS/ARGUMENTS

Applicant appreciates the Examiner's thorough search and examination of the present patent application.

Claims 1, 15, 22, 26, 28 and 33 have been amended to more clearly define applicant's invention. Claim 8 has been canceled. Applicant respectfully submits that the changes to these claims make explicit that which applicant believed to be already implicit and, therefore, are not made for statutory purposes related to patentability.

Claims 8, 13, 28 and 33 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. As noted above, claim 8 has been canceled. With regard to claim 13, the Examiner states that the term, "the knowledge base" lacks antecedent basis. Applicant respectfully submits that claim 13 depends directly from claim 11, which provides proper antecedent basis for "the knowledge base" of claim 13. Reconsideration is respectfully requested. Claims 28 and 33 have been amended and, accordingly, overcome the Examiner's rejection thereto under 35 U.S.C. §112, second paragraph.

Claims 1, 8-9, 11-12 and 14-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lin et al. ("Lin," U.S. Patent No. 5,949,415). Applicant respectfully traverses this rejection.

Applicant's claimed invention represents an improvement over prior art techniques for performing software auditing. As described in applicant's written specification, at least one prior art software auditing system intercepts system functions to create an entry in a memory table which relates to software module usage. One shortcoming in the prior art and identified in applicant's specification is that the volume of data recorded and the processing time used to report module usage can be excessive. In other cases, intercepting system calls may not be practical or may impact system response times. Yet another shortcoming of prior art software auditing systems is that redundant information, or undesirable information is reported because automated processes, including intercepting system functions, does not include data filtering.

The invention defined in applicant's claim 1 overcomes these and other shortcomings by defining a combination of features that monitors activities and selects information which represents software products that are executed in a computer system over selected periods of

time. More particularly, claim 1 includes a “plurality of executable software programs constituting software products, each of the software products being constituted of one or more load modules.” Amended claim 1 further includes “a monitor that is periodically triggered to collect load module execution information” and “a filtering facility that is effective to filter at least one previously identified program from the load module execution information.” Furthermore, amended claim 1 includes a “correlator that correlates the filtered load module execution information with data that associates load module names with corresponding software products and develops a list of software products executed in the computer over the course of a given time period.” Moreover, amended claim 1 includes a “reporter that outputs data reflecting the use of the software products in the computer in terms of software product names thereof.” Thus, applicant’s claim 1 improves upon prior art software auditing systems that intercept system calls during execution, without any filtering.

Applicant’s independent claims 15, 22, 26 and 28 include similar features and also overcome shortcomings identified in prior art software auditing systems.

Lin, unlike applicant’s claim 1, is limited to monitoring usage of application programs that are executed only on client computer systems. The system in Lin is particularly useful in cases where a server computer receives information relating to a client computer’s use of application software for billing purposes, such as a cable operator providing application program services to subscribers under a usage-based billing arrangement (column 2, lines 37-56). More particularly, Lin provides a graphical user interface 3 included in client computer 1 which enables a user of client computer 1 to launch a variety of programs. Graphical user interface 3 includes a program monitor 4 which is configured to track program usage. Applicant respectfully submits that Lin operates similarly to prior art software auditing systems, and does not teach or suggest claimed limitations of amended claim 1, including the “filtering facility” and the “correlator that correlates the filtered load module execution information with data that associates load module names with corresponding software products.”

The Examiner indicated at section 7 (with reference to applicant’s claim 8, canceled herein) that Lin teaches a filtering facility and cites to column 10, lines 11-15 of Lin for support. Applicant respectfully disagrees.

The above-identified passage in Lin cited by the Examiner is found in claim 13. The cited portion of Lin's claim 13 includes "means for tracking information relating to execution of the task or subtask acted upon by the operating system and *combining* said information with information relating to execution of all other tasks or subtasks associated with the application program" (emphasis added). In other words, and described in Lin at column 5, lines 33-55, Lin combines information so that program monitor 4 can "continue tracking program usage information for a given application for as long as tasks spawned directly (parent) or indirectly (children) by that application are running[.]"

Applicant respectfully submits that applicant's claim 1 "filtering facility," that is effective to "filter at least one previously identified program *from* the load module execution information," (emphasis added) and "correlator," that correlates the "filtered load module execution information," are patentably distinct from the teachings of Lin. Applicant notes, for example at page 13, lines 3-16 of applicant's specification, filtering out particular load module execution information (such as file usage by system executed programs) eliminates false conclusions and/or information that is not desired. Lin, in contrast, combines information to report multiple instances of a given program, and is silent with regard to filtering information from "load module execution information."

Therefore, for the foregoing reasons, applicant respectfully submits that Lin does not teach or suggest elements of applicant's claim 1, and, accordingly, does not anticipate under 35 U.S.C. §102(e).

Applicant's independent claims 15 and 22 include similar limitations and, therefore, are also not anticipated by Lin.

Claims 8-9, 11-12 and 14 depend directly or indirectly from claim 1, and, therefore, are also not anticipated for the similar reasons, and are patentable because of the combination of features in those claims with the features set forth in the claim(s) from which they depend.

Claims 2-7, 10, 13, and 26-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lin in view of Johnson (U.S. Patent No. 6,788,980). Claims 28-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lin in view of Evans (U.S. Patent No. 6,430,708). Applicant respectfully traverses these rejections.

Applicant respectfully submits that neither Johnson nor Evans teaches or suggests at least applicant's claimed "filtering facility" that is missing from the teachings of Lin. Therefore, for at least the reasons set forth above, claims 2-7, 10, 13 (which depend directly or indirectly from claim 1), claim 27 (which depends from claim 26), and claims 29-33 (which depend from directly or indirectly from claim 28) clearly define over the prior art, including the combinations of Lin and Johnson, and Lin and Evans.

For the foregoing reasons, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on May 26, 2005:

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